

Chapter 13.12

SURFACE WATER MANAGEMENT

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13.12.010 Purpose and intent.

A. The purpose of this chapter is to promote sound development guidelines and construction procedures which respect and observe the city's watercourses; to minimize water quality degradation and control the sedimentation of creeks, streams, ponds and other water bodies; to protect property owners adjacent to developing and developed land from increased runoff rates which could cause erosion of abutting property; to protect downstream owners; to preserve and enhance the suitability of waters for recreation; to preserve and enhance the aesthetic quality of the waters; to maintain and protect groundwater resources; to minimize adverse effects of alterations in groundwater quantities, locations and flow patterns; to ensure the safety of public roads and right-of-way; and to decrease drainage-related damage to public and private property.

G. Carry out such other responsibilities as may be required by this chapter or other city ordinances or regulations relating to stormwater.

H. Conduct public education programs related to the protection and enhancement of the drainage system.

I. Delegate, as appropriate, the authority granted under this chapter to meet the goals and purposes of this chapter.

J. Take any emergency or other action as determined appropriate by the director to operate, repair, safeguard and/or protect the drainage system.

K. Coordinate as necessary or advisable with private and public stakeholders, and federal, state, county, city and regional governments. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.030 Definitions.

Words and phrases when used in this chapter shall have the meanings as defined in Chapter 17.08, Definitions. Words not defined shall have their usual meanings as commonly understood. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.040 Ecology Stormwater Manual adopted.

The city hereby adopts the thresholds, definitions, minimum requirements and exceptions, adjustment and variance criteria found in Appendix I of the NPDES Phase II Municipal Stormwater Permit, including the mandatory incorporated provisions of the 2005 Ecology Stormwater Management Manual for Western Washington. Authority is hereby delegated to the director to adopt such administrative changes or amendments to the Ecology Manual as necessary or appropriate to conform to local circumstances; provided, that such changes and amendments shall be consistent with the purpose and intent of this chapter and in no case be less stringent than currently adopted standards. The director shall at all times maintain and make available for public inspection the Ecology Manual, as amended. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.050 Establishment of regional facilities.

In the event that public benefits would accrue due to modification of the drainage plan for the subject property to better implement the recommendations of the adopted storm drainage study, the director may recommend that the city should assume responsibility for the design, construction, operation and maintenance of the drainage facilities, or any increment of the facilities on the subject property. Should establishment of a regional detention facility at a location not contained in the subject property entail a greater public benefit, the director may require the applicant to participate in the cost of such an off-site regional detention facility in lieu of constructing on-site detention facilities. Such decision shall be made concurrently with review and approval of the plan as specified in Section 13.12.240. In the event that the city decides to assume responsibility for all or any portion of the design, construction, operation and maintenance of the facilities, the applicant will be required to contribute a pro rata share to the construction and maintenance cost of the facilities. The applicant may be required to supply additional information at the request of the director to aid in the determination by the city. (Ord. 1222 § 2 (Exh. A) (part), 2009)

16. Swimming pool or spa filter backwash.
17. Chlorine, bromine, or other disinfectants.
18. Heated water.
19. Domestic animal wastes.
20. Sewage.
21. Recreational vehicle waste.
22. Animal carcasses.
23. Food wastes.
24. Bark and other fibrous materials.
25. Lawn clippings, leaves, or branches.
26. Silt, sediment, concrete, cement or gravel.
27. Dyes.
28. Chemicals not normally found in uncontaminated water.
29. Any other process-associated discharge except as otherwise allowed in this section.
30. Any hazardous material or waste not listed in subsection A of this section.

B. Allowable Discharges. The following types of discharges shall not be considered illegal discharges for the purposes of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising ground waters.
3. Uncontaminated ground water infiltration—as defined in 40 CFR 35.2005(20).
4. Uncontaminated pumped ground water.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban stormwater.
8. Springs.

2. This prohibition expressly includes, without limitation, illicit connection made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Ord. 1222 § 2 (Exh. A) (part), 2009)

4. A person found in violation of Section 13.12.080 shall be in violation and subject to enforcement as described in Section 13.12.310.

5. NEED TO PROVIDE LEVELS OF ESCALATING ENFORCEMENT for illicit discharge.

6. NEED TO DEFINE RESPONSIBLE PARTY FOR RECTIFYING ILLICIT CONNECTIONS

13.12.090 Emergency conditions requiring immediate action.

Subject to this chapter, whenever it appears to the director that immediate action is necessary to protect the public health, safety, welfare, environment or public resources, the director or their assignees is authorized to enter at all reasonable times in or upon any property, public or private, for the purpose of inspecting, investigating and correcting such emergency conditions. The director may, without prior notice, order the immediate discontinuance of any activity leading to the emergency condition. The director shall have the authority to determine, implement, and accept any intermediate action addressing the emergency condition pending final resolution, and no such action shall constitute precedence for similar or dissimilar actions in the future. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.100 Ownership of the stormwater system.

A. The city shall own all elements of the public stormwater system; provided, that the terms of this chapter are satisfied as to such elements of the public stormwater system.

B. Public stormwater facilities shall be located in the public right-of-way or on tracts to which the city has legal and physical access rights.

CB. The owner of property on which a private stormwater facility is located shall be deemed the owner of said private stormwater facility, unless ownership has been transferred to another person in accordance with the terms of this chapter.

CD. The city may accept ownership of a private stormwater facility only when all of the following conditions are met:

1. A finding of fact is submitted in writing by the owner(s) of the facility to the director, documenting how Ownership of the private stormwater facility by the city would provide a public benefit; and

2. ~~Necessary and appropriate legal rights, as determined by the city attorney, are granted to the city and recorded in the Snohomish County auditor's office by the person owning and/or responsible for the private stormwater facility, all at no cost to the city. Such rights may include but are not limited to permanent access for operation, maintenance, and repair; and~~

B. ~~Application Authorized—Term.~~ Any applicant (developer) utilizing private funds to install street, storm sewer or other related improvements and appurtenances may apply to the city to establish a latecomer's agreement for recovery of a pro rata share of the cost of constructing said public improvements from the owners of the other properties that will later derive a benefit from said improvements. No reimbursement agreement or latecomer's agreement shall extend from a period longer than fifteen years from the date of final acceptance by the city of the applicable public improvement. The city council shall have discretion to authorize or not to authorize latecomer's agreements on a case-by-case basis.

C. ~~Rights and Nonliability of City.~~ The city reserves the right to refuse to enter into any latecomer's agreement or to reject any application therefor at the city's sole discretion. No latecomer's agreement shall be legally effective until the city council adopts an ordinance approving the latecomer's agreement at a public meeting of the city council. All applications for latecomer's agreements shall be made on the basis that the applicant releases and waives any claims for any liability of the city in the establishment and enforcement of any latecomer's agreements. The city shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through latecomer's agreements.

D. ~~Application Requirements.~~ All applications, procedures and policies for latecomer's agreements shall be approved and established by the mayor or his/her designee, and shall be accompanied by all nonrefundable application fees set forth in the city's land use fee schedule or in any fee schedule subsequently adopted by the city. The latecomer's agreement application must be submitted for city review prior to city acceptance of the improvements for which reimbursement is sought.

E. ~~Eligibility of Applicants.~~ In order to be eligible to apply for a latecomer's agreement, the applicant shall be in compliance with all city ordinances, rules and regulations relating to any development application or project associated with the proposed latecomer's agreement.

F. ~~Procedures for Latecomer's Agreements.~~

1. ~~The applicant (developer) proposing to establish a latecomer's agreement shall submit a preliminary estimate and proposed reimbursement/benefit area ("benefited area") boundaries as part of the engineering drawings submitted as part of the initial project application. Following utility/street installation/construction and city acceptance of same, the applicant (developer) requesting a latecomer's agreement shall submit detailed construction plans and drawings for the project together with a site plan, map or diagram of the proposed benefited area which documents shall be prepared and stamped by a licensed professional civil engineer and which shall identify the proposed boundaries of the benefited area and each separately owned parcel of real property located within the benefited area and the location of the project in relation to all parcels of real property located within the benefited area, and an itemized cost estimate for the entire project based upon the plans of the civil engineer from which reimbursable costs shall be estimated, together with assessor's reports (including names and mailing addresses) of all real properties within the benefited area, and such other information and documents as the city may require.~~

2. ~~The applicant (developer) requesting a latecomer's agreement shall submit, along with the application, the nonrefundable application fee set forth in the city's land use fee schedule, which application fee shall be applied to the city's legal, engineering and administrative costs in processing the application for the latecomer's agreement, which costs shall be included as~~

8. — Once recorded, the latecomer's agreement shall be binding on all owners of record of all real properties located within the benefited area who are not party to the latecomer's agreement.

9. — Every two years from the date the contract is executed a property owner entitled to reimbursement under this section provide the appropriate county, city, or town with information regarding the current contract name, address, and telephone number of the person, company, or partnership that originally entered into the contract. If the property owner fails to comply with the notification requirements of this subsection within sixty days of the specified time, then the contracting county, city, or town may collect any reimbursement funds owed to the property owner under the contract. Such funds must be deposited in the capital fund of the county, city, or town.

10. — The city reserves the right to participate in these agreements.

11. — The city shall neither issue a building permit nor similar development permit or approval unless the city has received full payment of the assessment applicable to the property connecting to or using the street and/or utility system improvements constructed by the applicant (developer); provided, if the validity of the latecomer's agreement is challenged, the city reserves the right to issue a permit, approval or permission without liability or prejudice to the city, and without prejudice to any other rights or remedies available to the applicant (developer) under this section or otherwise at law or in equity.

12. — Segregation. The director shall, upon the request of any property owner within the benefited area, segregate the assessment among portions of a particular parcel that is legally subdivided. The segregation shall be based upon the same factors applied when the assessments were originally established. The property owner seeking segregation of the assessment shall pay all costs to record the segregation as well as an administrative fee to the city based upon a segregation fee schedule to be established by the city from time to time. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.140 Traffic control. Right-of-Way Use Permit

A. — The developer/contractor shall be responsible for interim traffic control during construction on or along traveled roadways. Traffic control shall follow the guidelines of the WSDOT/APWA Standard Specifications. All barricades, signs and flagging shall conform to the requirements of the Manual on Uniform Traffic Control Devices (MUTCD).

B. Signs must be legible and visible and shall be removed or covered at the end of each work day if not applicable after construction hours.

C. — Road closures will not be allowed in normal circumstances. One lane of travel is to remain open to traffic at all times. When road closures and detours cannot be avoided, the contractor/developer shall notify the director forty-eight hours in advance. The city may require a detour plan to be prepared, submitted and approved prior to closing any portion of a city roadway.

D. — A right-of-way use permit shall be required before work in the right-of-way can commence. See requirements in Chapter 12.04 and contact the department of public works for specific permit information. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.170 Bonds and liability insurance required.

A. Performance Bond. The director is authorized to require applicants constructing any storm drainage facilities, including but not limited to LID retention, /detention, /infiltration and/or other drainage treatment/abatement facilities to post a performance bond(s) which includes site stabilization and erosion control, at a rate of 150% of the engineer's estimated cost of construction. The performance bond shall be submitted prior to final project approval as a guarantee to the city that improvements will be installed in a satisfactory manner. Where such applicants have previously posted, or are required to post, other such bonds on the facility itself or on other construction related to the facility, such person may, with the permission of the director and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

B. Maintenance Bonds. After satisfactory completion of the facilities and release of the performance bond, if it was required, by the city, the applicant constructing the facility shall commence a two-year period of satisfactory maintenance of the facility. A maintenance bond to be used at the discretion of the director, to correct deficiencies in said maintenance affecting public health, safety and welfare must be posted and maintained throughout the two-year maintenance period. The amount of the maintenance bond shall be fifteen percent of the construction cost of the drainage facilities. In addition, the maintenance bond shall cover the cost of design defects and/or failure in workmanship of the facilities throughout the two-year maintenance period.

C. Liability Policy. The person constructing the facility shall maintain a liability policy in an amount to be determined by the city which shall name the city of Mukilteo as an additional insured and which shall protect the city from any liability for any accident, negligence, failure of the facility, of any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be submitted to the city prior to permit issuance. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in the case of facilities assumed by the city for maintenance, the liability policy shall be terminated when the city maintenance responsibility commences. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.180 Construction and warranty inspections.

A. Construction and Installation Inspection. All projects involving construction of new stormwater facilities or connections to or modifications of existing stormwater facilities shall be subject to city inspection to ensure compliance with the program approved plans and any related conditions of permit issuance or project approval. Issuance of any such permit or project approval shall be deemed to include ~~constitute~~ consent by the property owner or other responsible person for all inspection ~~and testing~~ by the city. Newly installed stormwater facilities shall be inspected, and tested according to the Mukilteo Development Standards. All documentation associated with inspections and testing shall meet the requirement of the development standards and permit conditions and be submitted and accepted by the city prior to final approval and documentation completed according to the city's engineering standards.

B. ~~Warranty Inspections and Tests.~~ Stormwater facilities and equipment accepted by the city under specific warranties may be reinspected at the city's discretion and, if necessary, shall be repaired by the developer and retested prior to the expiration of the warranty period.

CE. The same plan submitted during one permit/approval process may be subsequently submitted with such additional information that is required by the director. The city may require additional information during the permit review process. The previous stormwater site plan submittals may be re-submitted provided that all additional required information is shown. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.200 Stormwater Site Plan Drainage plan—Contents.

All applicants required to submit a drainage planstormwater site plan pursuant to Section 13.12.210-190 shall provide a drainage planstormwater site plan for surface and pertinent subsurface water flows entering, flowing within, and leaving the subject property both during and after construction. The detailed form and contents of the drainage plansstormwater site plan shall follow the criteria outlined in the Ecology Manual and the Development Standards and include:

A. Evidence of how each Stormwater Minimum Requirement is met.

AB. Background Computations for Sizing Drainage Facilities.

1. Depiction of the surrounding drainage area according to the adopted storm drainage system on a topographical map of approved scale and contour level, acreage of the entire subject property, development, developmental coverage and contours before and after development indicated in intervals not to exceed twenty-five feet or as otherwise required by the director.

2. Indication of the peak discharge and volume of surface water currently entering and leaving the subject property due to the design storm.

3. Indication of the peak discharge and amount of runoff which will be generated within the subject property, due to the design storm, if the development or proposed activity is allowed to proceed.

4. Determination Calculation of the peak discharge and amount of water that will be generated by the design storm in each Threshold Discharge Area, as defined in the Ecology Manual at various points on the subject property.

BC. Proposed measures for handling the computed runoff and ensuring water quality.

CD. Proposed measures for controlling runoff, maintaining water quality and controlling erosion during construction. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.210 Stormwater easement requirements.

A. Private Easements

1. When Required

a. An easement (or other form of legal document) satisfactory to the city attorney is required whenever a private stormwater facility will be built on property owned by a different private party; or

3. Easements are required to be prepared by the applicant and submitted in draft, unsigned for review and approval prior to plan approval. Signed, recorded, conformed copies are required prior to final city acceptance of a project. Any change in design which places an amenity, i.e., water, sewer, sidewalk, etc., outside of the easement may necessitate stopping of construction until plans and easements can be resubmitted and approved. Plan review fee shall be based on the rate as established for third submittal fee.

C. City Access Easement. Construction of any new private stormwater facilities require an access easement, satisfactory to the city attorney, allowing inspection by the city to verify the maintenance condition of the stormwater facility.

D. Recording. Easements will be recorded with Snohomish County's Assessor's Office by the developer upon satisfactory completion of the work. A conformed copy will be provided to the City prior to issuance of the final permit.

E. Costs. The property owner shall pay all costs of preparing, reviewing and recording of the easement or other document.

F. Relinquishment of Easement. An easement granted to the city may be relinquished by the city only if the city determines it is no longer needed for the public benefit and the city council authorizes the relinquishment.

A. ~~When Required:~~

1. ~~An easement (or other form of legal document) satisfactory to the city attorney is required whenever a private stormwater facility will be built on property owned by a different private party; or~~

2. ~~Will serve two or more properties that are not in common ownership or that will no longer be in common ownership following development or redevelopment; or~~

3. ~~Is desired to be constructed on public property.~~

~~Public stormwater facilities, including any private stormwater facilities that will be publicly maintained, shall be located in the public right-of-way or on tracts to which the city has proper access rights.~~

B. ~~Requirements. All of the following requirements shall be met before the city may accept and approve any easement for access:~~

1. ~~The grantor shall have clear title to the property or interest to be conveyed; and~~

2. ~~The easement shall be compatible with utility clearance standards, setback and access standards, and other existing utilities or easements; and~~

3. ~~The easement shall provide for adequate access to the stormwater facility for repair and maintenance. When deemed necessary by the director, the easement shall contain provisions for long-term maintenance; and~~

4. ~~The easement shall prohibit all structures within the easement area except those that can readily be removed by the property owner at the owner's expense when access to the~~

1. ~~In open channel work the water surface elevation will be indicated on the plan and profile drawings. The configuration of the finished grades constituting the banks of the open channel will also be shown on the drawings.~~

2. ~~Proposed cross-section of the channel will be shown with stable side slopes as approved by the director.~~

3. ~~The water surface elevation of the maximum flow for the design storm will be indicated on the cross-section;~~

DA. All plans shall include required permanent access easements to the city, pursuant to Section 13.12.210 for inspection and maintenance and operation if required;

B. All plans shall include a covenant for maintenance of the permanent stormwater improvements. The covenant shall identify the party responsible for maintenance, a site plans showing the stormwater infrastructure, and the maintenance requirements. A signed covenant and maintenance plan shall be submitted with the permit application. The covenant shall satisfy the requirements found in Stormwater Minimum Requirement #9. The covenant shall be recorded with the Snohomish County Assessor's office. A conformed copy shall be provided to the city prior to issuance of the final permit.

EC. The director may, with the concurrence of the city council, approve alternate methods of storm drainage disposal not meeting the Stormwater Minimum Requirements, following the process found in Section 13.12.250, and the Development Standards; of this section. To obtain such approval, the applicant must satisfy the director that the adverse effects of allowing direct discharge of stormwater runoff into the storm drainage system would, because of the proximity of the subject property to the point of discharge into receiving waters and the location of the subject property in relation to others within the drainage area, be less than the adverse effects of on-site storage at the levels prescribed in this section on cumulative peak discharge from all properties in the drainage area. The director may, with the council's concurrence, condition such approval on construction or improvement of off-site drainage facilities impacted by the direct discharge in order to assure that the adverse effects of such discharge are adequately mitigated;

FD. Site Remodels and Renovations. Redevelopment projects shall comply with Ecology Stormwater Manual Minimum Requirements and the impervious surface maximums found in Chapter 17. Site improvements greater than fifty percent of the current assessed value of the existing facilities shall comply with the impervious surface limitations set forth by zone in the table in Section 17.12.010 and shall comply with the LID requirements for parking areas set forth in Chapter 17.56. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.240 Stormwater system engineering and design requirements.

A. Adoption of Engineering Standards. The director shall prepare and update, as needed, engineering standards to establish minimum requirements for the design and construction of the stormwater system and requirements for protecting existing stormwater facilities during construction. The engineering standards shall be consistent with this chapter, the Ecology Manual and adopted city policies.

B. Applicability.

B. Criteria for Granting Exception. The findings of fact and conclusions shall include the completed exception application, including the location of the development, the owner of the property, the nature of the request for an exception, the reason for the exception, and provide evidence that: ~~required by this section shall affirmatively address all of the following criteria:~~

1. The exception provides equivalent environmental protection, is clearly in the public interest, and will fully meet the objectives of safety, function, environmental protection and facility maintenance based upon sound engineering practices and principles; and At a minimum, an evaluation completed by an engineer shall show:

i. There is sufficient capacity of any downstream regional retention/detention facilities under design conditions, using current modeling methods; and

ii. Evidence that the integrity of the receiving waters is maintained by providing a downstream analysis; and

iii. The responsible party has the ability to maintain the system; and

2. There are special physical circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the property owner of all reasonable economic use of the property, and every effort has been made to find alternative ways to meet the intent and requirements of Section 13.12.2340; and

3. The granting of the exception will not be detrimental to the public health and welfare, will not be injurious to other properties in the vicinity and/or downstream of the property, and will not be injurious to the quality of the waters of the state; and

4. The exception provides the least possible deviation from the requirements of Section 13.12.240230. (Ord. 1222 § 2 (Exh. A) (part), 2009)

C. Appeals. All appeals under this Section shall follow the process outlined in Section 17.13.070 and Section 17.13.090.

13.12.260 Applicability to government entities.

A. All municipal corporations and governmental entities shall be required to submit a drainage plan stormwater site plan and comply with the terms of this chapter when developing and/or improving land including, but not limited to, road building and widening, buildings, facilities and parking lots within areas of the city.

B. It is recognized that many other city, county, state and federal permit conditions may apply to the proposed action. Although compliance with the provisions of this chapter may not constitute compliance with such other requirements, the city shall attempt to resolve discrepancies in order to avoid unequal enforcement. In all cases, however, the most stringent standards shall be presumed to be applicable. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.270 Construction of stormwater facilities.

A. General. All construction or modification of a stormwater facility shall comply with this chapter, the Ecology Manual the city's Development engineering standards, the approved stormwater connection permit, the approved plans and specifications, the recommendations of the manufacturer of the materials or equipment used, and any applicable local, state or federal requirements.

B. Private Stormwater Facilities. Every property owner and/or person responsible for a private stormwater facility shall be responsible for operating, maintaining, repairing and replacing any private stormwater facility located on said property or under their control. Upon written notice by the city, a private stormwater facility shall be promptly repaired and/or brought up to applicable standards by the property owner or the person responsible for said facility. If a private stormwater facility serves multiple lots and the responsibility for maintenance has not been specified on a subdivision plat, short plat or other legal document, maintenance, operation and repair responsibility shall rest with the homeowners' association, if one exists, or otherwise with the properties served by the facility, or finally, with the owners of the property on which the facilities are located.

C. Assumption of Maintenance Responsibility by City. The city may, at its sole discretion, agree to assume the maintenance of a private stormwater facility; provided, that the city may not agree to maintain any private stormwater facility unless all of the following conditions are met to the director's satisfaction:

1. Maintenance of the facility by the city would provide a public benefit; and
2. Necessary and appropriate property rights and access are provided to the city in accordance with this chapter; and
3. The city has adequate resources, now and in the foreseeable future, to maintain the facility; and
4. At the time the maintenance of the facility is assumed by the city, the facility is in good repair and order, and is functioning in the manner that was intended when designed; and
5. If the request is coming from the owner(s) of the facility, then a formal letter with evidence supporting 1-4 above shall be submitted.

56. The director has obtained a binding agreement, satisfactory to the city attorney, describing the terms and conditions under which the private facility shall be maintained by the city.

Unless directly caused by the sole negligence of the city, the city shall not be responsible for repair or replacement of failed structures, parts, or components of a private stormwater facility (even if the city has accepted the maintenance of said facility), nor for maintenance or rehabilitation of vegetation (except as may be needed, in the city's sole discretion, for the detention and/or water quality function of the facility). Following assumption by the city of the maintenance of a private stormwater facility, the private property owner(s) shall continue to be responsible for the entire costs of any repair to and/or replacement of the facility.

D. New Private Stormwater Facilities. In new subdivisions, short plats, and binding site plans, operation and maintenance responsibility for private stormwater facilities shall be specified on the face of the subdivision, short plat or binding site plan to the satisfaction of the director before final approval of the subdivision, short plat or binding site plan may be granted.

E. Maintenance Standards. Stormwater facilities shall be maintained so that they function as designed and intended. Maintenance shall be performed in accordance with the city's maintenance standards and in accordance with the project operation and maintenance plan, if one is developed pursuant to this chapter. (Ord. 1222 § 2 (Exh. A) (part), 2009)

- B. Verify the location of the existing on-site drainage facilities.
- C. Cap connections that are no longer needed.
- D. Provide, as necessary and to the extent determined by the director, alternate means of disposing, treating, and controlling stormwater.
- E. Comply with the requirements of the program chapter and any other conditions imposed by the director or other city departments. (Ord. 1222 § 2 (Exh. A) (part), 2009)

13.12.310 Enforcement.

A. In the absence of access easements, the city may enter private property within its limits to inspect for drainage problems upon invitation or to the extent allowable by administrative warrant from appropriate authorities to ascertain that drainage facilities are properly functioning.

B. In the event deficiencies are found, the property owner shall make such corrections as are necessary within fifteen days of the date of written notice by registered mail, return receipt requested, to the owner of record and the occupant of the property.

C. In the event the person or persons violating this chapter fail to make corrections within fifteen days of the date of written notice by the city, the city may:

1. Prosecute violations of this chapter as a misdemeanor and be subject to the provisions contained in Chapter 1.32, General Penalties.

2. By council resolution, determine any conditions which constitute or will constitute a violation of any of the provisions of this chapter, or rules or regulations adopted hereunder, a public nuisance, a threat to the health or safety of the city, a violation of the NPDES Permit for which the city may seek legal or equitable relief to enjoin any acts or practices or abate any such conditions.

3. Revoke the right to occupancy of the subject property and/or may enter if required to make the drainage facilities perform as required by the approved drainage plan. All costs for corrective measures and enforcement actions shall be borne by the property owner.

4. Additional Remedies.

a. In addition to any other remedy provided by this chapter or under the Mukilteo Municipal Code, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

b. The director may provide the option for compensation of all or part of any penalties incurred by any person(s) to be made in the form of community service approved by the director that will be of benefit to the environment and the city. The person(s) and director will enter into a formal, written agreement providing for the community service. This agreement shall include in detail description of the service(s) to be rendered by the person(s) in penalty for noncompliance

Chapter 35.67 RCW. The rates for surface water drainage service are adopted in order to fund the necessary operation, maintenance and improvement to the city's surface water drainage system. (Ord. 634 § 1, 1988)

13.16.020 Definitions.

Words and phrases when used in this chapter shall have the meanings as defined in Chapter 17.08, Definitions. Words not defined shall have their usual meanings as commonly understood.

~~Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage. The following terms are defined for purposes of this chapter only:~~

~~A. "Commercial/multifamily" includes all property zoned or used for multifamily, commercial, industrial, retail, governmental or other nonresidential purposes.~~

~~B. "Dwelling unit" means a building or portion thereof providing a complete housekeeping facility for one family. "Dwelling" shall not be considered to include a hotel, motel, tourist court, or tourist home.~~

~~C. "Family" means one or more persons related by blood, marriage or adoption, or a group of not more than eight persons not related by blood, marriage, or adoption but living together as a single housekeeping unit in a dwelling unit.~~

~~D. "Impervious area" means any part of any parcel of land that has been modified by the action of persons to reduce the land's natural ability to absorb and hold rainfall. This includes areas which have been cleared, graded, paved or compacted, or covered with structures. Excluded are all lawns, landscape areas, and gardens or farming areas.~~

~~E. "Single family/duplex property" includes all single family dwellings and all two-family dwellings. "Single family dwelling" means a detached building designed for and occupied exclusively by one family and the household employees of the family. The term shall not include mobile homes. "Two-family (duplex) dwelling" means a multifamily dwelling consisting of a building containing two independent, but complete housekeeping facilities and designed to be occupied by two separate families. All other residential development shall be classified as "multifamily." (Ord. 634 § 2, 1988)~~

13.16.030 Rates for surface water drainage service.

The owners of all real property in the city which contribute drainage runoff to and/or which benefit from the city's surface water drainage system shall pay a monthly fee as set forth in this section.

A. **Single-Family and Duplex Residential Service Charges.** Monthly service charges for each single-family and each duplex residential dwelling unit shall be as set forth in the surface water utility monthly charges fee schedule included in the city of Mukilteo fees and charges resolution adopted by the city council.

B. **Commercial/Multifamily and Nonresidential Property Service Charges.** The monthly fee for all commercial/multifamily and other nonresidential properties shall be computed in accordance with the following formula, and in accordance with the surface water utility monthly charges fee schedule included in the city of Mukilteo fees and charges resolution adopted by the city council:

pay all delinquent or unpaid surface water drainage service charges. Such fees shall be due and payable as provided herein. (Ord. 634 § 4, 1988)

13.16.041 New account charge.

A new account charge in the amount of one-half of the new account charge in effect in the Mukilteo water district is imposed on all new surface water accounts and surface water account charges for properties which are not otherwise served by the Mukilteo water district. The charge is necessary to defray expenses of setting up new accounts and making account charges for accounts to be billed by the Mukilteo water district under contract with the city. (Ord. 792 § 3, 1994)

13.16.045 Annual review of service charges.

The city council shall review the service charges established by Section 13.16.030 on an annual basis in order to ensure that the same continue to reflect the utility's capital, operating and maintenance needs and provide for an equitable system of rates and charges for all classes of customers. (Ord. 792 § 5, 1994)

13.16.070 Appeals.

A. Any customer or property owner who feels that the surface water drainage service charge for their property has been incorrectly computed may petition, in writing, to the city engineer for a review of the computations. The petition shall include the reason for the dispute and evidence of the discrepancy. The city engineer shall review the petition and render a decision. The city engineer shall notify the petitioner of the engineer's decision in writing.

B. If the petitioner is not satisfied with the determination of the city engineer, the petitioner may request the mayor or mayor's designee to review the petition and the city engineer's decision. The decision of the mayor or the mayor's designee on the petition shall be final.

C. Any credits authorized by the appeal process shall only be effective against billings subsequent to the date of authorization. (Ord. 634 § 7, 1988)

13.16.080 Liens.

Pursuant to RCW 35.67.200, et seq., the city shall have a lien for delinquent or unpaid surface water drainage service charges. Enforcement and foreclosure of the lien(s) shall be as provided by law. Interest on the unpaid balance shall be eight percent per year or such higher rate as authorized by state law. (Ord. 634 § 8, 1988)